

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JOSEPH A. and JOSEPHINE A., by their next
friend, CORINNE WOLF, et al.,

Plaintiffs,

-vs-

No. CIV 80-0623 JC/DJS

NEW MEXICO DEPARTMENT
OF HUMAN SERVICES, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER came on for consideration of Defendants' Notice of Objection Pursuant to Fed. R. Civ. P. 72 (b) to April 4, 1997 Order on Plaintiffs' Motion for Attorneys' Fees and Costs (*Doc. 1494*) and Plaintiffs' Motion to Affirm, in Part, the Magistrate Judge's April 4, 1997 Order Granting Plaintiffs Attorneys' Fees and Costs (*Doc. 1500*). By letter, I was notified that the parties have reached agreement on all issues except those relating to Plaintiffs' entitlement to travel expenses and the reimbursable rate for non-productive travel time.

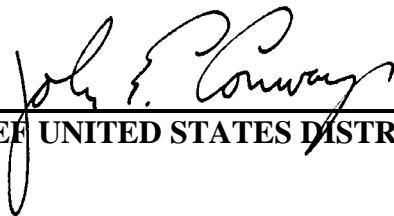
The Court has reviewed Magistrate Judge Svet's Order of April 4, 1997, the memoranda submitted by the parties and the relevant authorities. The Court finds that the Magistrate Judge's decision to award travel expenses and limit non-productive travel time to one-half the hourly rate should be affirmed whether under a clearly erroneous standard or pursuant to *de novo* review. Plaintiffs' out-of town counsel provide expertise and a long history with the case justifying the award

of necessary travel expenses under the circumstances. Similarly, an award of half the hourly rate for non-productive travel time will reasonably compensate Plaintiffs' counsel.

Wherefore,

IT IS HEREBY ORDERED that the contested objections raised by Plaintiffs and Defendants to Magistrate Judge Svet's Order of April 4, 1997 are hereby **rejected**, and the Order of April 4, 1997 is **affirmed**.

DATED this 3rd day of December, 1997.



CHIEF UNITED STATES DISTRICT JUDGE